

REMARKS

The following remarks and the above amendments are submitted to address all issues in this case, and to put this case in condition for allowance. The claims are amended and new claims are added solely to better define the subject matter of the present invention. No new matter is added with these amendments or the inclusion of new claims. After the above amendment, application claims 1 through 18 and 21-23 are pending in the application. Application claims 1, 21 and 23 are independent.

Applicants have studied the Office Action Mailed March 2, 2006 as clarified on March 13 and have the following remarks.

35 U.S.C. §102 and §103

The Examiner rejected claims 1-4 and 7-13 and 15-20 as being anticipated by either Wachter (US 3,775,949) or Grandjean et al (US 5,900,043 - hereinafter Grandjean) and claims 5, 6 and 14 as obvious in light either Wachter or Grandjean, in view of Rick et al (5,925,172 - hereinafter Rick) or German reference (DE 2312303). Applicants respectfully traverse the rejections and contend that the claims are not anticipated or rendered obvious by the cited references.

The references fail to show an NBC filter or ECU

The Examiner asserted that both Wachter and Grandjean each show a system having one air path including a filter (filtered), and one which does not include a filter (unfiltered). Applicants respectfully contend that this actually misstates the showing of both references, but more importantly, that the claims are still not anticipated because neither of the references show

the inclusion of an NBC filter in at least one path. Applicants have previously pointed out that the cited references do not show all the elements of the claims, and Applicants reiterate this argument in conjunction with the current claims, as amended.

In the first instance, the Examiner's assertion is not an accurate depiction of Wachter or Grandjean. In particular, Wachter teaches a filtration unit whereby the primary and default air flow path 8 is through a coarse dust filter 5, and then through a suspended matter filter or gas filter 6. The secondary air flow path consists of a by-pass line 16 whereby the air flows around the coarse dust filter 5, but still must go through the suspended matter filter and gas filter 6. Wachter provides for no air paths which are free of filtration as all air passes through the suspended matter and gas filter 6.

Grandjean shows a similar construction, the principle path goes through electrostatic filter 1 and then through high efficiency filter 24. The other path 22, bypasses the electrostatic filter 1 but still passes through the high efficiency filter 24. Therefore, neither device actually shows an "unfiltered" path.

However, the claims of the instant case do not simply recite that there are two paths one being filtered and one being unfiltered. The claims instead specify that there are two paths, one path where air passes through an NBC filter, while the other path does not. Even if one was to say that one path of Wachter or Grandjean is filtered and one is unfiltered based on the bypass of the dust filter or electrostatic filter (even though both paths actually are "filtered"), neither shows a path where air passes through an NBC filter.

The Examiner states on Page 5 of the Office Action that "The phrase 'a nuclear, biological, and chemical (NBC) filtration unit for use with a portable environmental control unit (ECU)' has not been given patentable weight because it has been held that a preamble is denied

the effect of a limitation where the claim is drawn to a structure and the portion of the claim following the preamble is a self-contained description of the structure no depending for completeness upon the introductory clause.” [emphasis added].

However, in all the independent claims, after the preamble, there is specified at least one air path where air passes through an NBC filter. Applicants therefore contend that even if the preamble reciting an “NBC filtration unit” is not entitled to patentable weight, the elements of two air flow paths where air passes through at least one path with an NBC filter is entitled to patentable weight.

With regards to the remaining references, as discussed above, Wachter and Grandjean fail to show filtration units or methods having two separate air paths, one of which passes through an NBC filter and the other of which does not. None of these deficiencies is made up by Rick or the German reference.

Wachter and Grandjean also give no indication of replacing any of their filters with an NBC filter. Wachter does not include an NBC filter, but a coarse dust filter and a suspended matter filter or gas filter. Grandjean also does not discuss an NBC filter, but an electrostatic filter and a high efficiency filter. These are very different types of filters used for different activities and there is no indication that any of the filters in Wachter or Grandjean are designed to filter Nuclear, Biological, and Chemical agents or to be replaced by a filter that does.

The references further fail to show purging at least one of the air paths using air from the other.

Without admission as to the necessity of such amendment to overcome the cited references (as Applicants continue to assert that the prior claims are allowable as discussed

above), Applicants have further provided in the claims a plurality of valves (claims 1 and 21) or means to purge (claim 23) which provide for the ability to purge at least one air flow path with air from another air flow path. In particular that air passing through an NBC filter can be flowed through another air flow path to purge it.

The cited references clearly do not show such an arrangement. In Wachter, such purging appears to be impossible as the air flow clearly is only one-way is not intended to flow from one path into the other but simply provides for a system to increase air flow into the suspended matter filter and gas filter 6 if needed by adding a path (see the FIG)

In Grandjean, the switching valve 25 is clearly only capable of providing air flow from one of the asserted two pathways to the high efficiency filter 24. It is incapable of allowing air passing through the electrostatic filter to flow down the other path (or vice versa).

The remaining references also clearly do not provide for the missing elements.

In light of the above remarks, Applicants respectfully request that the Examiner withdraw his rejection of the claims.

Conclusion

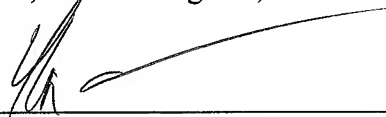
In light of the above remarks, Applicants believe there are no further issues regarding the patentability of the pending claims and respectfully request the Examiner withdraw the rejections and allow all pending claims so that this case can pass on to issue.

Applicants enclose herewith a petition for a one month extension of time, the requisite fee, and the fee for the additional new claim. Applicants believe no additional fees are due in conjunction with this filing, however, the Commissioner is authorized to credit any overpayment

or charge any deficiencies necessary for entering this amendment, including any claims fees and/or extension fees to/from our **Deposit Account No. 50-0975**.

If any questions remain, Applicants respectfully request a telephone call to the below-signed attorney at (314) 444-7783.

Respectfully submitted,
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